IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 6793 OF 2004

The Secretary, Swami Vivekanand
Shikshan Sanstha & Anr. .... Petitioners.

Versus

Rajkumar Shridhar Pawar & Ors.. ... Respondents.

Mr. P. D. Dalvi for the Petitioners.

Mr.Shrishail Sakhare for Respondent No.1.

Mr. Vijay Killedar i/by Mr. M.G.Kulkarni
for Respondent No.2.

Mr. C. R. Sonawane, AGP for Respondent Nos.3 and 4.

CORAM : R. M. LODHA &
NARESH H. PATIL, JJ.

DATED : 7TH AUGUST, 2006.

P.C. :

We heard Mr. P. D. Dalvi, Counsel for the petitioners, Mr.Shrishail Sakhare, Counsel for respondent no.1, Mr. Vijay Killedar, Counsel for respondent no.2 and Mr. C. R. Sonawane, Assistant Government Pleader, for respondent nos.3 and 4.

2. The respondent no.1 was appointed as Lecturer in the subject of Marathi in Samajbhushan Ganpatrao Kalbhor Mahavidyalaya run by the first petitioner with effect

from 21st September, 1998. He continued to be in employment upto 30th June, 2000. He raised grievance before the Pune / Shivaji University and College Tribunal that having been selected by Local Selection Body, he ought to have been given permanency. The College Tribunal did not find merit in his contention and dismissed the appeal. However, in respect of the petitioner's grievance that he has not been paid his salary, the tribunal held that since non-payment of salary from March to 19th June, 2000 is admitted, it directed the present petitioners to make payment of the unpaid salary to that extent immediately to the present respondent no.1. As regard the claim of respondent no.1 that payment of difference in his salary from 1st September, 1998 to 30th June, 2000 remains outstanding, the Tribunal observed that if the payment has not been made, the same shall be paid. That order dated 3rd December, 2001 passed by the College Tribunal attained finality is not in dispute. Neither the present petitioners nor the respondent no.1 challenged the said order.

3. By the impugned order dated 23rd June, 2004 the Director of Grievance Committee directed the petitioners to obey the order passed by the Grievance Committee in Complaint No. 61 of 2000. The Grievance Committee in Complaint No. 61 of 2000 directed that whatever pay

scale is available to respondent no.1 may be paid to him after deducting the amount of advance already paid to respondent no.1. It appears to us that there has not been determination in respect of the amount payable by petitioners to respondent no.1 during the period he remained in service i.e. 12th September, 1998 to 30th June, 2000. The exact amount needs to be determined as per the order passed by the Joint Director for Higher Secondary Division, Pune - respondent no.3.

4. We, accordingly, dispose of this writ petition by following order :

(a) The order dated 24th March, 2004 passed by the Joint Director for Higher Secondary Division, Pune Region, Pune is quashed and set aside.

(b) The Joint Director for Higher Secondary Division, Pune is directed to determine the amount payable to respondent no.1 as per the order passed by the Grievance Committee in Complaint No.61 of 2000 and after adjusting the advance paid to respondent no.1 by the petitioners, quantify the exact amount payable by petitioners to respondent no.1 and pass appropriate order in that regard.

(c) The petitioners are directed to make due payment to

respondent no.1 as determined by the Joint Director for Higher Secondary Division, Pune immediately thereafter.

(d) The petitioners as well as respondent no.1 are directed to appear before the Joint Director for Higher Secondary Division on 1st September, 2006. The respondent no.3 shall complete the exercise within two months from the date of appearance of the parties.

Writ petition is disposed of, accordingly.

Sd/-

(R. M. LODHA, J.)

Sd/-

(NARESH H. PATIL, J.)